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REMARKS

In accordance with the foregoing, claims 8, 9 and 15 have been amended. Claims 8-16 are pending and under consideration.

Claims 8-13 and 15 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,623,605 to Keshav et al. in view of U.S. Patent No. 5,548,589 to Jeon et al., U.S. Patent No. 6,721,306 to Farris et al. and U.S. Patent No. 5,930,265 to Duault et al. The Examiner is relying upon four references to reject the claims. For claim 14, this claim is rejected in view of the four references relied upon for claims 8-13 and 15. In addition, the Examiner relies upon a fifth reference for claim 14, U.S. Patent 6,324,178 to Lo et al.

As described below, it is submitted that the Examiner is picking and choosing the between the features of the four references. To combine such a large number of references is already an indication that the claims would not have been obvious. The reliance upon four references is likely an indication that the Examiner combines the documents with the benefit of hindsight provided by the present application.

Feature identification regarding Keshav et al.

Claim 8 defines a method for transmitting data from communication terminals to a switching system, wherein data is transmitted in a form a substructural elements by one of the communication terminals, and the substructural elements get forwarded to the switching system. Therefore, both the communication terminal and the switching system support the same data format, which is formed of substructural elements. The Examiner cites communication terminals 320-324 of Keshav et al. as corresponding to the claimed terminals. The Examiner cites LAN 333 as corresponding to claimed switching system. However, terminals 320-324 are connected to an ATM network 300. In order to match the feature set of claim 8, the LAN 333 should be connected to ATM 300 or another ATM type network or link. That is, claim 8 requires the switching system to support the same data format (formed of substructural elements) as the communication terminals.

According to Keshav, LAN 333 is connected to a packet-oriented Internet 310. No indication is given that the Internet 310 could be used for transmitting a data format formed of substructural elements. In fact, Keshav points out data packet format mismatches between the Internet 310 and the ATM network 300. (see Keshav, col. 5, lines 41-46). As a consequence, entities connected to the Internet 310, especially LAN 333, would not be considered to be a switching system according to claim 8. That is, claim 8 requires that the switching system be

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able to receive substructural elements. In Keshav, there is no passage of substructural elements from the "communication terminals" 320-324 to something connected to the Internet 310.

Inconsistencies between Keshav and Jeon:

The Examiner argues that Jeon discloses a hub (switching unit 1501) having interfaces for each of the communication terminals. The Examiner asserts that it would have been obvious to have a hub in Keshav in order to provide direct connection for user terminals.

According to claim 8, the hub is used to connect subscriber interfaces to a packet oriented communication network. Claim 8 recites that substructural elements from different communication terminals are inserted into data packets. If Jeon's switching unit 1501 could be identified as a hub, it would be necessary for switching unit 1501 to replace Keshav's gateway 100. In this case, a person skilled in the art would have to modify Keshav's system even further so that the ATM network 300 is removed so that the communication terminals 320-324 are connected directly to the hub 1501. There is no suggestion in Keshav or Jeon for these additional modifications.

The connectionless cell switching unit 1501 is defined in Jeon acts as a unit receiving a cell, selecting one of its input ports, and transferring the cell to a selected output port (see Jeon, col. 8, lines 56-59). This obviously defines a switching functionality, which differs quite substantially from the functionality of a hub. For example, referring to Fig. 15 of Jeon, ports 3 and 6, input and output ports, both support ATM connections. On the other hand, the hub according to claim 8 requires two different data formats: the data format formed of substructural elements from the subscriber interfaces and the data packets for transmission to the packet-oriented communication network. Therefore, connectionless cell switching unit 1501 of Jeon is simply not a hub.

There is no suggestion to replace Keshav's gateway 100 (which is a gateway between the Internet 310 and the ATM network 300) with Jeon's switching unit 1501 (which does not even provide an interface to an Internet or a packet-oriented network). The Examiner argues that it would have been obvious to combine Keshav and Jeon "to provide a direct connection for user terminals." The Examiner cites Jeon, col. 17, lines 50-55. However, this excerpt does not contain the motivation mentioned by the Examiner. With the knowledge of claim 8, the motivation seems to be expressed by the examiner with the benefit of hindsight. No motivation can be found regarding why applying a hub to Keshav's system would be beneficial. Therefore, the modification would not have been obvious.

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Inconsistencies between Keshav, Jeon and Duault:

The Examiner states that Keshav in view of Jeon and Farris do not disclose inserting substructural elements from different communication terminals into a common data packet. It has to be pointed out, that the Examiner does not address the fact, that the inserting is performed by the hub, which itself is not obvious. Besides, the Office Action also does not mention that substructural elements are inserted from another communication terminal into the data packets (two insertion steps).

Duault discloses a method for transporting multimedia data packets via ATM cells over an ATM network. See Duault, abstract; Fig. 5. Previously, the Examiner has made clear that the he understands "substructural elements" as corresponding ATM cells and understands "data packets" as corresponding to multimedia data packets. In this case, Duault suggests quite the opposite of Claim 8. Duault relates to inserting data packets into substructural elements not to inserting substructural elements into data packets of a packet-oriented communication network. A consistent interpretation of the features of claim 8 based on Keshav and Duault is not possible.

Additionally, the Examiner is using a "chain of documents", which itself is evidence of non-obviousness. That is, the Examiner uses Jeon to substitute switching unit 1501 for Gateway 100. Then, the Examiner argues that it would have been obvious to change the essential function of switching unit 1501. If it is necessary to completely change the switching unit 1501, then one having ordinary skill in the art would make no attempt to use it. Alternatively, if it were obvious to substitute switching unit 1501 for the Gateway 100, then one having ordinary skill in the art would keep the essential functions of the switching unit 1501.

Inconsistencies between Keshav and Farris;

As a motivation to combine Farris with Keshav/Jeon, the Examiner states that it would have been obvious to have an access unit for the switching system of Keshav in view of Jeon in order to interconnect a local switching system. Presumably, the Examiner is referring to LAN 333 of Keshav when the Examiner mentions a local switching system. However, interconnection of local switching systems is not the subject of claims. The invention relates to transmitting data between terminals and a switching system. Therefore, the given motivation to combine Farris with Keshav/Jeon is not relevant to claim 8.

According to claim 8, data packets are transmitted to an access unit via the packet-oriented network. Furthermore, from these data packets, substructural elements are extracted

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via the access unit, and the access unit forwards the substructural elements to the switching system. An access unit having this functionality cannot be found in Farris and is not suggested by Farris. The Examiner identifies T1 card 77 (see Fig. 2) as corresponding with the claimed access unit. T1 card 77 is connected to an internet service provider router and to a wireless gateway system 5. Therefore, T1 card 77 provides an interface to a packet network. However, there is no further information in Farris to indicate that the T1 card performs an extraction of substructural elements from the data packets.

Therefore, Farris does not disclose an access unit according to claim 8, and there is motivation to modify Keshav's system in view of Farris.

The claims require that the access unit be connected to a switching system. In Farris, the gateway system 5 does not seem to perform any switching steps. Therefore, the feature identification of a switching system with gateway system 5, as provided in the office action, is not accurate.

In view of the forgoing, claim 8 is new and non-obviousness. Claim 9 corresponds to claim 8 but relates to communication in an opposite direction. Therefore, the arguments presented above also apply to claim 9. Claim 15 contains limitations which are substantially similar to claim 8, but somewhat different. The arguments presented above apply to claim 15 substantially the same as they do claim 8.

In view of the foregoing amendment and remarks, it is submitted that the prior art rejections should be withdrawn.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: May 23 2006By: Mark J. Henry
Mark J. Henry
Registration No. 36,162

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

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P.O. Box 1450, Alexandria, VA 22313-1450
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By: Mark J. Henry
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